

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RUFINO FERNANDO NAVARRO, ISMAEL MEJIA
and, JUAN ROSAS, on behalf of themselves,
individually, and on behalf of all others similarly-
situated,

Plaintiffs,

-against-

ADAMBA IMPORTS INTERNATIONAL, INC.,

Defendant.

Docket No.:
1:21-cv-6342-PKC-RLM

**STIPULATION AND ORDER REGARDING CONDITIONAL CERTIFICATION,
ISSUANCE OF COLLECTIVE ACTION NOTICE, AND DISCLOSURE OF CONTACT
INFORMATION**

Plaintiffs RUFINO FERNANDO NAVARRO, ISMAEL MEJIA and JUAN ROSAS (collectively, “Plaintiffs”), and Defendant ADAMBA IMPORTS INTERNATIONAL, INC., (“Defendant”), (collectively, “the Parties”), through their respective counsel, hereby stipulate, and the Court hereby orders, that:

1. The First Claim for Relief in Plaintiffs’ Complaint shall be conditionally certified pursuant to 29 U.S.C. § 216(b) of the Fair Labor Standards Act (“FLSA”), with respect to the following collective, which supersedes the definition of the collective stated in paragraph 26 of the Complaint:

Non-managerial warehouse employees, who at any time during the period of November 16, 2018 to present, worked for Adamba Imports International, Inc., and who consent to file a claim to recover damages for (1) overtime compensation and/or (2) liquidated damages (“FLSA Plaintiffs”).

2. Within fourteen days of the Court's Order, Defendant shall provide Plaintiffs with a list of the FLSA Plaintiffs, their dates of employment, their primary or native language, their last known mailing addresses, and their last known telephone number to the extent that Defendant has this information in its possession.

3. Within fourteen days of receiving the list, Plaintiffs' counsel shall distribute the Notice and Opt-in Form attached hereto as **Exhibit A** to the FLSA Plaintiffs, via USPS first class mail, and text message (in accordance with the provisions set forth below).

4. Within thirty days of sending the Notice and Opt-in Form, Plaintiffs' counsel is permitted to send a reminder notice, attached hereto as **Exhibit B**, to each FLSA Plaintiff via USPS first class mail, and text message in the form set forth below.

5. Plaintiffs reserve the right to make an application to the Court for social security numbers or TIN numbers for all individuals whose notice is returned as undeliverable, in order to perform a skip trace or similar search for updated mailing addresses.

6. Plaintiffs' counsel shall translate **Exhibits A** and **B** into Spanish and Polish and to distribute **Exhibits A** and **B** in English, Spanish, and Polish. Plaintiffs shall provide the Spanish-translated and Polish-translated versions to Defendant for review and approval at least five days prior to sending, exclusive of Saturdays and Sundays.

7. Plaintiffs' counsel is permitted to provide notice in the form of text message attachment sent to putative FLSA Plaintiffs, in addition to the other forms of notice referenced herein.

8. The body of the text message shall state only the following content, which may, at Plaintiffs' option, be translated into the primary language of each putative FLSA Plaintiff:

If you worked as a non-managerial warehouse employee for Adamba Imports International, Inc., at any time between November 16, 2018

through the present, you might be entitled to join a lawsuit seeking back pay for overtime wages. For additional information about the case, including how to join, please open and review the attached documents.¹

THIS ELECTRONIC NOTICE AND ITS CONTENTS ARE NOT SPAM OR A SOLICITATION TO JOIN A LAWSUIT. THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY MAGISTRATE JUDGE ROANNE L. MANN OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK. THE COURT HAS TAKEN NO POSITION REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR OF THE DEFENDANT'S DEFENSES.

9. The reminder text message shall contain the same subject line and body, and shall include as an attachment **Exhibit B**, which may, at Plaintiffs' option, be translated into the primary language of each putative FLSA Plaintiff.

10. The Opt-in period shall be a sixty (60) day period commencing the day after Plaintiffs' mailing of the original Notice and Opt-in Form.

11. Nothing set forth herein shall be construed as a stipulation by Defendant that Plaintiffs, and the individuals to whom such Notices shall be sent are, in fact, "similarly situated" under the law. Nor shall this stipulation be construed as waiving or impairing Defendant's right to challenge the propriety of proceeding as a collective action and/or the inclusion of any individual who opts into the collective action at the second stage of the two-step procedure endorsed by the Second Circuit for certification of a collective action under the FLSA. *See Scott v. Chipotle Mexican Grill, Inc.*, 954 F.3d 502, 515 (2d Cir. 2020); *Myers v. Hertz Corp.*, 624 F.3d 537, 554 (2d Cir. 2010).

12. By stipulating to Conditional Certification, Defendant is not waiving any defense it may wish to use in this action, and is not waiving its right to move to decertify this collective

¹ For any notices sent via text message, a URL link will be included in lieu of any attachments, wherein recipients will be redirected to an electronic copy of the Notice and a fillable consent to join form.

action pursuant to FLSA § 216(b) or to oppose any future motion that Plaintiffs might make with respect to the issue of final certification of a FLSA collective action.

13. This stipulation may be executed in counterparts and by facsimile/scanned signatures, which shall bear the same weight as original signatures.

Dated: April 11, 2022

FRANKLIN, GRINGER & COHEN, P.C.

By: 

Danielle E. Mietus, Esq.
666 Old Country Road, Suite 202
Garden City, New York 11530
Tel: (516) 228-3131
Attorneys for Defendant

Dated: April 11, 2022

JOSEPH & NORINSBERG, LLC

By: 

Jon L. Norinsgberg, Esq.
Michael R. Minkoff, Esq.
110 East 59th Street, Suite 3200
New York, New York 10022
Tel: (212) 227-5700
Attorneys for Plaintiffs

SO ORDERED

Dated: Brooklyn, New York
April 15, 2022

/s/ Roanne L. Mann

The Hon. Roanne L. Mann, U.S.M.J.